

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-435

October 29, 2004

CENTRAL MAINE POWER COMPANY
Request for Approval of Affiliated Interest
Transaction to Increase Dollar Limit for the
Energy East Shared Services Corp &
Energy East Management Corp Support
Services Agreement with Certain Energy
East Affiliates

ORDER APPROVING
STIPULATION

I. SUMMARY

On July 1, 2004, Central Maine Power Company (CMP), Maine Natural Gas, MaineCom Services, Maine Electric Power Company, NORVARCO and Chester SVC Partnership (collectively Applicants) filed a request that the Commission increase the transaction limit for support services provided to the Applicants by Utility Shared Services Corporation (USSC) and Energy East Management Corporation (EEMC) set by the Commission in *Central Maine Power Company, Request for Approval of Reorganization and of Affiliated Interest transactions to Create Energy East Shared Services*, Docket No. 2003-321, Order Approving Stipulation (July 24, 2003) from the current level of \$10 million to \$25 million.

In this Order we approve a Stipulation entered into between the Applicants and the Office of the Public Advocate (OPA) and, thus, approve the Applicants request for an increase in the inter-company transaction limit to \$25 million.

II. BACKGROUND

Under the provisions of Commission's Order Approving Stipulation in Docket No. 2003-321, the Applicants were allowed to increase the transaction limit from \$10 million to \$14 million by making a notice filing with the Commission, which would then become effective automatically unless a party to that proceeding or the Commission Staff filed an objection to the filing within 30 days of the time of the Applicants' notice filing. As there were no objections to CMP's request, the increase in the transaction limit to \$14 million went into effect with the issuance of our Notice of Transaction Limit Increase in this Docket on August 17, 2004. The Applicant's petition for a further increase in the transaction limit to \$25 million remained pending.

The Commission's Advisory Staff and the OPA issued a number of written data requests and held Technical Conferences on August 4 and August 18, 2004. CMP and the OPA reported in early October that they had reached a settlement and forwarded a

draft copy to the Advisory Staff shortly thereafter. The parties filed a signed Stipulation on October 20, 2004.

III. DESCRIPTION OF THE STIPULATION

The parties to the Stipulation propose that the Applicants request for an increase in the inter-company transaction limit to \$25 million be approved subject to certain conditions. Among these conditions are that in 2007, as the end of CMP's Alternative Rate Plan (ARP 2000) nears, the amounts paid to the service companies (USSC & EEMC) under the service agreement will be subject to Commission review prior to the inclusion of any such costs in retail customers rates following the end of ARP 2000. A 2006 test year would be used in this review and the Commission's approval of this Stipulation will not be construed as pre-approval of any of these costs for a future rate proceeding.

Also, in the event that the Securities & Exchange Commission (SEC) conducts an audit of the service companies at some point in the future to ensure that costs paid by the Applicants are properly computed in accordance with Rules 90 and 91 of the Public Utilities Holding Company Act of 1935 (the Act), the Applicants have agreed that the Commission will have the right to participate fully in that proceeding.

The Applicants have agreed that all provisions of the settlement in Docket 2003-321 that are not in conflict with this Stipulation are incorporated into this agreement and will remain in effect. Although not explicitly addressed by the parties, we assume provisions not conflicting with this Stipulation from *Central Maine Power Company, et. al., Request for Approval of Affiliated Interest Transaction for Two Service Agreements with Energy East Management Corporation*, Docket No. 2001-178, Order Approving Stipulation (July 10, 2001), including, but not specifically limited to, the previously approved cost allocation manual are, by extension, also incorporated into this Stipulation.

Finally, CMP's parent company Energy East (EE) will file copies of annual and quarterly reports pursuant to Section 58 (U-9C-3 Reports) of the Act at the same time it files those reports with the SEC. These reports show detailed results of operations of the service companies including the amounts paid to these companies by each of their affiliates.

IV. DECISION

As we have stated on many occasions, to accept a stipulation the Commission must find:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;

2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996).

We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets these criteria.

CMP and the OPA have agreed to the Stipulation and these entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criterion.¹ See *Public Utilities Commission, Investigation of stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 99-185, Order Approving Stipulation (Maine Public Service Company) at 3 (Aug. 11, 2000).

Based on the record before us, we also find that the process that led to this Stipulation was fair and open. We, therefore, conclude that the second criterion for approval has been satisfied.

Finally, given the Stipulation's provisions discussed in Section III above, and the fact that CMP is operating under an incentive-based rate-making plan in ARP 2000, we find that the Stipulation provides CMP, and the other Applicants, with an opportunity to pursue corporate objectives and economic efficiencies while at the same time ensuring that utility subsidiaries' core ratepayers are protected. Thus, we conclude that the result of the Stipulation is reasonable, not contrary to legislative mandate and consistent with the public interest.

Accordingly, we

O R D E R

1. That the Stipulation filed by the Applicants and the Office of the Public Advocate on October 20, 2004 in this matter, a copy of which is attached and incorporated into this Order, is approved;

¹ No other party intervened in this proceeding and therefore no party opposed or refused to join the Stipulation.

2. That Energy East shall provide the Commission copies of its annual and quarterly reports filed pursuant to Section 58 (U-9C-3 Reports) of the Public Utilities Holding Company Act of 1935 at the same time it files those reports with the Securities & Exchange Commission;

3. That all other provisions of Docket No. 2003-321 settlement that are not in conflict with this Stipulation are incorporated into this Stipulation and remain in effect; and

4. That pursuant to the requirements of 35-A M.R.S.A. § 707(D), approval of the Affiliated Transaction Agreements, does not limit or restrict the powers of the Commission in setting rates under the provisions of Title 35-A.

Dated at Augusta, Maine, this 29th day of October, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.